

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, September 27, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Steve Henrichsen, Tom Cajka, David Cary, Ed Zimmer, Jean Walker and Michele Abendroth of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held September 13, 2006. Motion for approval made by Carroll, seconded by Krieser and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

September 27, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 06061 and SPECIAL PERMIT NO. 06050.**

Ex Parte Communications: None.

Strand moved approval of the Consent Agenda, seconded by Krieser and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 06050, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

REQUESTS FOR DEFERRAL:

CHANGE OF ZONE NO. 06060
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
SPECIAL PERMIT NO. 06052,
WEST VAN DORN ACRES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT THE NORTHEAST CORNER OF
S.W. 70TH STREET AND WEST VAN DORN STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 27, 2006

Members present: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson.

Ex Parte Communications: None.

The Clerk announced that Kent Seacrest has submitted a written request for a two-week deferral.

Larson moved to defer for two weeks, with continued public hearing and action scheduled for October 11, 2006, seconded by Carroll and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'.

There was no testimony.

CHANGE OF ZONE NO. 06059,
TEXT AMENDMENT TO THE SIGN CHAPTER
OF THE LINCOLN MUNICIPAL CODE,
CHAPTER 27.69, TO PROVIDE FOR
ELECTRONIC AND COMPUTER GENERATED
SIGNS UTILIZING LED AND SIMILAR TECHNOLOGY.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 27, 2006

Members present: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson.

Ex Parte Communications: None.

Additional information for the record: Mike DeKalb of Planning staff submitted a memo from himself suggesting that there are two additional amendments that staff is working on which the

staff would request be amended in by the Planning Commission, with the final language to be drafted prior to submitting this text amendment to the City Council, i.e. 1) to allow for the night time use for public emergency broadcasting by governmental emergency services, and 2) to allow for some additional ECC face changes for nonconforming billboards, unless it is within 150 feet of and facing a residential zone, park or cemetery.

DeKalb also submitted two e-mail messages from Time-O-Matic, Inc. and Daktronics, Inc., providing information about LED lighting and the technology. These two companies did raise issues about the sensors and brightness level being required in the proposal.

Staff presentation: DeKalb explained that this proposal was initiated by the Director of Planning when the Planning Department was approached by LaMar Outdoor Advertising to use LED's for billboards in Lincoln. The amendments to the sign code, as proposed, affect both on- and off-premise signs and provide for billboards to "swap out" and utilize LED signs. There are restrictions specific to spacing. The proposal adds provisions for brightness; restricts animation; and provides definitions. The complaints and issues that have been raised to date include requests to use this technology. The city is also currently conducting a lighting study, and the issue of blinding or distraction by these signs has come up in that study. This issue is being controlled by the standards for brightness in the proposed legislation.

DeKalb then showed a video of the types of signage that this proposal will allow.

Cornelius inquired about the term "illuminated tubes". DeKalb explained that the illuminated tube is actually old technology and a lot of the historic language is being carried forward in the new proposal.

Esseks inquired as to the potential safety risks. How do the proposed changes deal with those risks? DeKalb suggested that the key issue on safety relates to distraction to the motorist. There are probably two pieces – brightness/blinding distraction and animation – which tends to catch the eye and distract it. This proposal attempts to limit both. The "nits" or illumination level attempts to address the brightness issue. Other issues relative to lighting would be similar to what is in place today.

Strand inquired whether this legislation is retroactive or whether existing signs will be grandfathered. DeKalb stated that the expectation is that everything that is in place would be grandfathered.

Larson stated that he does not understand the proposal for the exchange of one LED for three non-illuminated signs. DeKalb explained that it was found that LED is a new technology for presenting new information in a different way. When we were looking at other cities, we found that many cities looked at this as a way of getting away from older signs. LaMar was

agreeable to “swap out” a face from an existing structure because there is a lot more value to the new technology – they have agreed to do a “three-to-one swap out” to get rid of some of the old faces and old signs. This applies anywhere in the city.

Support

1. Martha Lee Heyne, 5906 Rolling Hills Blvd., appeared on behalf of **LaMar Outdoor Advertising**. She expressed appreciation to the staff for bringing this legislation forward. LaMar Outdoor is the primary billboard company in Lincoln, being in business for over 100 years. She requested that the Planning Commission approve the staff’s recommendation. She acknowledged that there will be a need for some fine-tuning as this moves forward to City Council, one being the opportunity to do Amber Alerts or other civil defense messages. She advised that currently, LaMar’s billboards are dark from midnight to 5:00 a.m. and that will not change.

2. Bob Norris, Nebraska Neon Sign Company, 1140 N. 21st, submitted proposed amendments as follows:

27.69.030(a). Signs may be illuminated, except as otherwise provided in residential districts; provided, however, that the surface illumination of any sign shall not exceed the levels shown on the following graph “A” for different conditions of ambient light. Prior to the issuance of a sign permit the applicant shall provide a written certification from the sign manufacturer that the light intensity has been preset not to exceed the above illumination levels and the present intensity level is protected from end user manipulation by password protected software or other methods approved by the Building Official.

27.69.030(d). Any message on an electronic changeable copy sign shall be non-animated. Transition between messages shall not exceed a duration of two (2) seconds. Any sign over eighty square feet (80 sq. ft.) in area of the electronic message change shall hold the message for at least ten (10) seconds. A sign with eighty square feet or less in electronic message area shall hold for a least one (1) second.

Norris agrees with the issue of brightness but there will be challenges in regulating it. In the last decade, 90% of the electronic signs put up in Lincoln have been dimmable, dimming anywhere from 75% to 90%. He fears that we are writing a lot of words that we don’t need to write. With regard to brightness, he believes it would be smarter to set performance standards for daytime and nighttime. As long as it can be certified that they can meet the limits that are set and they do hit the limits, why do we care how they get there?

Norris's first amendment [27.69.030 (a)] eliminates the last sentence that specifies the hardware that has to be used. It's like setting the speed limit and then telling Ford to manufacture a car that won't go beyond 70 mph.

His second amendment deals with 27.69.030 (d) where the appear and disappear modes are specified. These modes are built into the software. The limits in the proposed language will eliminate the opportunity for animation in the display. The staff proposal restricts the transition time and the hold time. Those things by themselves preclude the user from using many of the animated displays. He does not believe the language needs to specify which are allowed. That will leave this open to more amendments for new technology in the future. The proposal is too specific in only allowing three modes of transition into the message.

Norris requested that the hold time be reduced from three seconds to one second. "If I am a commercial endeavor and I have one of these units with a small one-line or two-line unit, and I am mandated to show a message in 6 seconds, the market will be past my sign at 25-30 mph and will not see the sign." The industry would recommend .5 to .7 hold time per frame.

Carroll clarified that Norris's proposed change to (a) would eliminate the requirement of how it is dimmed. Norris agreed. He does not think it is fair to eliminate someone from the market by the ordinance. As long as they certify and do hit the limits, why specify how they have to get there? Just set the general standards of performance.

Carroll suggested that the unknown is whether they will hit those limits without the city's requirement. Norris suggested that if they can't hit those limits, then the sign companies cannot sell their products. We would have to remove the sign if it does not meet the standards. The burden is on the user not to put up something that cannot hit those limits. We have supplied this product in Lincoln a lot and have had no complaints of brightness. "Let them demonstrate that their product is marketable. Don't write them out of the market by using the ordinance."

With regard to the proposed amendment to (d) and the transition modes, Cornelius was curious about describing an alternative transmission mode besides fade and scroll and dissolve. Norris deferred to the engineers. It would be easier to do another video presentation to demonstrate other modes. The old fashioned traveling mode is the worst method to use.

3. Mitch Spencer, of Electronic Display Systems, 436 Pheasant Drive, Grand Island, Nebraska, testified and agreed with the concerns raised by Mr. Norris, i.e. the hold times. Electronic Display Systems manufactures this type of product. Longer hold times force the displays to have more copy. One line every three seconds of one or two words just does not communicate. With the same square footage, they turn it into three or four lines of four or six inch copy which is tougher to read, but that is the only way to get the complete message. So

from a safety perspective, now all of a sudden you are forcing me to come up on the message I can't see at the last minute and I'm overwhelmed with numerous lines of copy. We provide time and temp displays that change at one-second intervals. If there is more copy, the market dictates that the copy needs to stay up longer to be able to be read.

With regard to brightness, Spencer believes it is interesting that some of the readings appeared on the displays were incorrect. Probably more difficult to obtain is a ratio between how bright it is in the ambient background as opposed to what the sign actually is. Spencer pointed out that the signs that are out there now are allowed to be double the brightness of the new LED signs that actually run at lower levels. Even though we have no problems meeting any of the proposed specifications, if you limit the time changes, you are going to come up with signs that are actually less safe and not as effective as what is allowed now. We want our product to be readable, both day and night, so we will end up adjusting those brightness levels.

Esseks inquired whether Mr. Spencer's industry has collected information on the risks of these signs. It seems that if you have a story that you are telling in a series of slides and it takes you 10-15 seconds to tell that story, you get people engrossed. There must be some standards that have evolved. Spencer believes that the Federal Highway Administration (FHA) has done numerous studies that have indicated that you should end up having a complete message be visible numerous times before you actually pass that sign. This is just what we are talking about. If you hold that to three seconds, that actually goes contrary to the recent FHA study.

As far as safety issues, Spencer advised that Electronic Display Systems has been in business 25 years, and if there was a safety hazard, he suggested that they certainly would have been named in some suit or action that would relate to some kind of liability regarding the distracting nature of this type of product. Electronic Display Systems has never been named in any litigation and he is not aware of any study which shows that these displays pose a safety hazard.

Esseks believes a story that takes too long to tell could be risky. Spencer suggested that it depends on the speed of the traffic. It should be done in a manner that allows you to see the complete story multiple times before you pass. Esseks is worried about taking people's eyes off the road. Spencer observed that if you were out along the freeway and it is a 60-inch character telling that story, 15 seconds might be the right choice. If you are in town and it is a nine-inch character at 35 mph, 7 or 8 seconds might be the right choice. It would depend on the particular location of the sign, the speed and the particular height of the character. Other things like the actual visibility of the signage with regard to trees or other signage would be another issue and that would be unique to every location.

Esseks stated that he can read a billboard in two seconds. He is concerned about a message that takes so much longer that it becomes a traffic hazard. Spencer responded,

suggesting that if he had 10-15 lines of copy on that billboard, you couldn't read that in two seconds. It depends on the content of the sign.

Strand observed that if the billboard is giving her directions, it takes her longer to read. She believes that the sign above I-80 which is three or four lines is much more difficult than if it is one line, and then another line. Spencer suggested that this could be shown in a presentation which would show how you can pick up images at a glance better than you can see multiple lines of copy.

With regard to technology, Strand assumes that just in the last 10 years, technology is continually changing. Does the amendment proposed by Mr. Norris for paragraph (a) address technology in a way that works for the industry? Spencer concurred that it does address future technology, but the technology is changing fast. That is a little bit of the risk you run anytime you try to limit this kind of technology. In all likelihood what is being proposed with these billboards is going to become more the norm than the exception. It is just the way that the industry is moving. The changing technology will continue to be an issue if you try to stifle what businesses use. Strand stated that it may be better to set the limits, otherwise we will constantly need to make changes.

Carroll inquired about certification of maximum and minimum nits. Spencer stated that in his company's particular technology, they end up setting a minimum on the photocell where at darkest night it will achieve that dimmest level. It will take input and brighten itself up until the brightest time of the day. Even those levels are programmable. We only make the signs go as bright as they need to go in the daytime.

Carroll confirmed that the photocell is a variable rate as opposed to on/off. It increases or decreases according to the lightness of the day. Spencer agreed, but that is significant if everyone can adjust to that small change of light level. A 20% change of light level is incomprehensible to most people.

Cornelius noted that the draft specifies three transition modes: fade, scroll and dissolve. What other transition modes might there be? And what advantage is gained by an animated transition? Spencer suggested that everyone in the industry is going to call their mode "dissolve", but they may call it fade, zoom, dissipate or whatever they want to call it. Cornelius believes the modes are clearly defined in the code draft. Spencer stated that his favorite transition is zoom. At that point he can end up doing that as a dissolve. He thinks he can fall within the realms of a dissolve or something that would allow a zoom mode to be used. Some of the most effective modes would be a wipe or a curtain where it just opens all of a sudden. Some municipalities require a shutter or a Venetian which replicates something that would be akin to a tri-view sign. All of those are modes that are available and probably effective. Cornelius suggested that the mode is to attract the attention of the viewer.

Cornelius inquired whether there is an ideal number of frames per message. Spencer stated that “frames” is a tough way to break up a message.

5. Scott Morton, 5930 S. 91st, appeared to clarify that there is a difference between off- and on-premise. They are not proposing that billboards will do any scrolling or flashing. All they want is a static message that is held for 10 seconds.

Staff response

DeKalb pointed out that this proposal is attempting to accommodate the needs for both on- and off-premise signs. The difference that you see in the proposed text of the hold time is to address the difference between on- and off-premise signs.

On the brightness question, the staff concern is that it adjust to cloudy days, snow days, etc. Mr. Norris’s issue is that he has one manufacturer that does not have this mechanism. Other jurisdictions have it and require it. If they are willing to certify, the staff is willing to go along with it.

With regard to Mr. Norris’s proposed amendment to subparagraph (d), the only real change is from 3 seconds to 1 second. There was a long discussion on this and the video confirms that on-premise needs to change faster. DeKalb thought they had reached agreement on the three seconds. Staff believes that one second is just too fast and does not support the proposed amendment to one second.

As far as the transitions, the proposal talks about a variety. The definitions came out of a document provided by Bob Norris. The reason we did provide the definitions is that we are talking about animation on one hand and about time of seeing that message. The key issue was if you do a scroll and you don’t catch the beginning, you had to watch the whole thing. The intent was to try to get away from some of the technology that takes a long time to read.

Esseks noted that some communities have ban the use of cell phones while people drive because of the distractions. He is very concerned because this new technology may grow into becoming a dangerous distraction to the driver. Are we better off with rapid change in one second or better off with changes after three seconds? DeKalb stated that the staff has taken the position that holding the image was better than rapid changes.

Strand disagrees. When she’s looking for the time and temp, she does not want to wait three seconds. She also wants to see the stock market information. She wants the quick changes. DeKalb suggested that it relates to graphics management as opposed to the timing.

Carroll then referred to Mr. Norris’s proposed amendment to subparagraph (a) and wondered whether language could be added at the end of the last sentence, “or other device approved

by the Director of Building & Safety.” DeKalb would accept this amendment. If they can meet the intensity levels without the sensor, that would be acceptable.

Larson believes that one second is better. The only concern should be distraction. The Planning Commission should not be concerned with the effectiveness of the sign. Let the advertiser worry about that. There seems to be a lot less distraction if you have a change in one second. DeKalb suggested that watching the sign to see a one second image and multiple images in a sentence might be more distracting than stacking them up and having a longer hold.

Cornelius observed that if we are allowing this one second hold time with the idea that more information will be conveyed, the temptation is going to be to convey more information. He does not think there is a big difference. The problem he is having is that we are treating a variety of display methods very similarly. We’re talking about the 8 x 6 lamp, etc., the same as we are treating the exploding hamburger, and they are very different in the way they convey information. That is the trouble that we are having here. It’s almost as though there are separate classes of display methods – high resolution and multi-colored and low resolution and text. DeKalb agreed that the technology varies. But in all honesty, every code that the staff reviewed did try to package together one set of standards for brightness level, animation, etc., regardless of the technology.

Cornelius wondered about no limitation on the transition types but a time restriction – if we just said, do whatever you want for two seconds. DeKalb suggested that he can explode a lot of hamburgers in two seconds, and that is what we are trying not to allow to happen.

Carlson suggested that the balancing act is to determine the most effective way to keep the driver paying attention to driving. DeKalb suggested that the more it draws your eye off the road, the bigger the distraction. We are trying to address brightness level and animation that draws your eye away. He does not believe there is any clear scientific evidence.

Esseks stated that he is inclined to accept three seconds because there is less distraction in that time.

ACTION BY PLANNING COMMISSION:

September 27, 2006

Carroll moved approval, as revised, including the proposed amendments set forth in the Memorandum of Mike DeKalb dated September 27, 2006, with amendment to the last sentence in subparagraph (a) on page 6, adding, “or other devices approval by the Director of Building & Safety.” Motion was seconded by Cornelius.

Strand made a motion to amend subparagraph (d) on page 6, that if said sign area is 80 square feet or less, the message shall hold for at least three seconds if animated, and the message shall hold for at least one second if text, seconded by Larson.

Marvin Krout, Director of Planning, pointed out that there is some animation allowed up to two seconds, but there can be some kind of transition. The amendment seems to indicate that you can do an animated message for three seconds, but a static message for one second. He does not believe the sign industry is asking to be allowed to hold an animated message for three seconds. We are all in agreement that it should be static. The question is how long. Strand thinks three seconds is too long for time, temp and basic information.

Strand revised the motion to amend to change three seconds to one second on line 15, page 6, seconded by Larson.

Larson pointed out that if you're driving down 13th Street and you're looking at the First Federal sign, you've probably got three seconds to see the different messages. But if you are going 40 mph down 27th Street, you just don't have three seconds to wait for it to change from time to temp. He believes it is much safer to have a one second time frame. Cornelius is surprised by how many people depend on electronic copy signs for time and temp. He never thought about it that way.

Carlson's concern is that it lends itself to doing much longer messages so it tends to keep the driver's eye off the road.

Strand suggested that most advertisers that are paying \$15,000 to \$25,000 are going to put on a message that actually gets the one message across. They will not utilize them to send long-winded messages. For example, the Union Bank sign never advertises anything at Union Bank. They are only advertising how the stock market did and the time and temp, so it is very precise information.

Carlson believes that the overriding question is public safety and how to keep people's eyes on the road.

Motion to amend to one second failed 4-5: Strand, Sunderman, Larson and Krieser voting 'yes'; Cornelius, Taylor, Carroll, Esseks and Carlson voting 'no'.

Main motion for approval of the staff recommendation, as revised, with amendment to subparagraph (a) on page 6, and with the amendments as set forth in the Memorandum from Mike DeKalb dated September 27, 2006, carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. This is a recommendation to the City Council.

*** Break ***

**COMPREHENSIVE PLAN CONFORMANCE NO. 06012,
THE LANCASTER COUNTY ROAD AND BRIDGE
CONSTRUCTION PROGRAM, FY 2007 AND 2008-2012.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 27, 2006

Members present: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson.

Ex Parte Communications: None.

Staff presentation: David Cary of Planning staff presented the proposed Lancaster County Road and Bridge Construction Program. Staff has reviewed the 2007 and 2008-2012 program and has found it to be in general conformance with the Comprehensive Plan.

Larson inquired as to the meaning of the category "engineering" where it shows what streets are going to be improved. Cary explained that grading is when they would go out and improve it to extent for drainage structures and set it up for possible future paving. Engineering is the actual plans to whatever improvement is going to be done, such as how they are going to go about doing the improvement. It is the staging of the different phases of a project.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

September 27, 2006

Larson moved a finding of conformance, seconded by Carroll and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. This is a recommendation to the Lancaster County Board.

**MISCELLANEOUS NO. 06013,
BLIGHT AND SUBSTANDARD DETERMINATION FOR THE
NORTHWEST CORRIDORS REDEVELOPMENT AREA
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 27, 2006

Members present: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson.

Ex Parte Communications: None.

Staff presentation: Darl Naumann, Economic Development Director, presented the proposal, indicating that over the past two years the city has been approached by development and

business owners with the question: can the city help make Cornhusker Highway better for business and better for people entering the city from the airport? The answer is that it is targeted development. Over the past year, this area has become known as the Northwest Corridors Blight Study. This is a tool for addressing targeted blight.

The total area studied includes 1241 acres. The area shares many features, including large undeveloped areas along Sun Valley Boulevard, Cornhusker Highway, and N.W. 12th Street. Approximately 30% is vacant, 19% is in right-of-way, 18% in Parks & Recreational uses, 9% in commercial, 1.5% in residential and 3.5% is other uses. The railroad tracks bordering this area raise the possibility of Brownsfield environmental damage for some of these sites. The area is characterized by lack of sidewalks and dead-end streets. Cornhusker Highway represents a potential resource for the city being an access to I-80 and the airport. The designation of blighted and substandard offers the possibility of TIF funds for improvements. In response to the needs of other blighted and substandard areas of the community, Lincoln has looked at using redevelopment plans and other things to use TIF in redevelopment projects. In addition, over three years ago, the Angelou study gave Lincoln a failing grade for availability of large industrial sites. These sites have to be buffered from residential uses and out of the floodplain. The industrial site selection people are asking for sites of 80-100 acres. Many times we cannot find those in the Lincoln area that are properly sewered and ready to be developed.

Naumann indicated that the Planning Commission should take great pride in the result of their efforts in support of eliminating blight. Just a drive down West O Street – “you should be proud of what you’ve done.” West O is doing development that has been unparalleled in the city. Also 48th and O on the south side is nearly complete. There will be an anchor store on the north side after the first of the year.

Naumann noted that the Northwest Corridors Redevelopment Area meets the criteria established for blight and substandard. The study found that development occurring in the general area presents itself as blighted and substandard. It meets the criteria according to the state statutes, and those factors present a serious barrier to planned and coordinated development in the area. In addition, the blight and substandard designation is consistent with the redevelopment and revitalization activities as identified in the Comprehensive Plan.

Carroll stated that he understands West Cornhusker Highway, but most of the sites reaching up NW 12th are in good condition, so why that far north? Naumann’s response was that Urban Development wanted to make sure that developments along the corridors were in conformance with the planning statutes and the Comprehensive Plan, and to make sure that the entrance into the city along I-80 and Cornhusker Highway is consistent with what we had envisioned for people coming into the city. We wanted good development on both of those corridors.

Esseks inquired as to why the Pfizer campus is included because that has been recently redone. Naumann stated that even though the Pfizer campus may be included in the study, it is not blighted or substandard. It is just located in the area. It is included because it just looked like it fit better in the entire area. If we can encourage people to do what Pfizer did, that is what we are trying to do. Esseks is concerned that someone might misconstrue the plan and think we are giving special benefits to folks that can do the job on their own. Naumann clarified that there is no intent to use TIF at Pfizer.

Support

1. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of the University of Nebraska Technology Park Limited Liability Company, in support of the blight study. The UNL Tech Park supports the determination that the study area is blighted and substandard, including the Tech Park, because it addresses the entrance way corridor to the city and increases the flexibility available for development within the Tech Park and makes the benefits available under the Nebraska Community Development Law, which is one of the very few economic tools available for local governments.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

September 27, 2006

Larson moved a finding of reasonable presence of blighted and substandard conditions, seconded by Taylor and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. This is a recommendation to the City Council.

ANNEXATION NO. 06014,

CHANGE OF ZONE NO. 06053

and

SPECIAL PERMIT NO. 05015A,

AMENDMENT TO THE HARTLAND'S GARDEN VALLEY

COMMUNITY UNIT PLAN,

ON PROPERTY GENERALLY LOCATED

AT N. 14TH STREET AND HUMPHREY AVENUE.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 27, 2006

Members present: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson.

Ex Parte Communications: None.

Staff presentation: Tom Cajka of Planning staff presented this proposal for an expansion of an already existing community unit plan to add 23 lots.

The waiver of minimum flood corridor in Outlots A and C is no longer necessary. Watershed Management has determined that there is no defined bed and bank in that area and therefore the minimum flood corridor waiver is not needed.

With regard to location of the park, there have been ongoing discussions between the developer and the Parks Department and, at this time, an exact location has not been determined. Peter Katt will be submitting a motion to amend to address this issue.

The staff is recommending that the waiver of block length for Block 18 not be granted. The previously approved plan shows Mum Drive coming off of Jayden Avenue. The proposed plan does not show this street. Planning staff does not support this block length waiver because the connection is needed to adequately develop the property to the west. Mr. Spilker, the owner of the property to the west, believes this connection will increase costs. Cajka then showed sketches of the area showing the street extension and showing it without the street extension. Mum Drive would allow the development of 33 lots. Without Mum Drive extended, there would still be a total of 33 lots, extending the cul-de-sac. If the cul-de-sac is extended up to Bobby Drive, there is still an extra length of pavement, as opposed to a shorter cul-de-sac. Extending Mum Drive results in about 40 feet of additional pavement. Staff does not believe the requirement for this street will result in the loss of any lots and it will help development of the property to the west. This street connection complies with the Comprehensive Plan recommendation for shorter block lengths and more accessibility.

Proponents

1. Peter Katt appeared on behalf **Hartland Homes**, the applicant for this project, indicating that the only issue that is not resolved is the waiver of block length for Block 18 and he requested that Condition #3.1.1.3 be deleted.

Katt agreed that the issue on the minimum flood corridor has been resolved.

With regard to the park, Katt submitted a motion to amend Condition #3.1.1.13 as follows:

~~Revise Block 6 as shown on the approved site plan of Special Permit #05015. Show the public park in Block 6. A future public park location shall be provided within the CUP to the satisfaction of the Parks & Recreation Department and as agreed to with the Owner. The Planning Director may deny any final plat which, prior to approval of a park location, may impair the ability of the public park to be located within the CUP.~~

The park was originally located in a detention area, but then Parks decided it was not a location they wanted. The developer and the Parks Department have had ongoing discussions about where to relocate the park. Katt believes that the Parks Director plans to do some engineering work in Outlot B to try to take advantage of the commons area. That will enable Parks to spend the impact fee dollars on improving the park as opposed to buying the land.

With regard to the street connection (Condition #3.1.1.3), Katt reminded the Commission that Mr. Spilker had asked that this street connection be deleted in the past. Katt then showed an aerial of the property, depicting the current natural drainageways. While staff has correctly shown how a cul-de-sac could be extended further, the practical realities would indicate, because of the drainage swale and the property to the south (which is the Spilker current residence), that the Mum Drive connection is not needed. The current block length is measured along Bobby Drive. The total block length is 1,768 feet. The standard is 1,320 feet. Katt informed the Commission that the developer has agreed to put in a pedestrian easement at one of two locations to solve the block length problem. That would reduce the block length to 1,228. However, staff did not indicate that a pedestrian easement area would satisfy their concerns.

Esseks inquired about what to do with the problem of connectivity westward. It looks as though Bobby Drive couldn't do it. It looks as though the properties west of there are 5-10 acres. Katt believes that, in general, the properties to the west are approximately 5-acre parcels and there are a number of development scenarios that could occur on those properties. Pennsylvania Avenue goes through; Bobby Lanes cuts across; and presumably there will be a connection required "over into this area" at some point. All of the areas on the northern portion of the Spilker property each have access to 7th Street. He suspects that there will be another connection from Fletcher into this area that will need to be coordinated. Katt believes there are sufficient opportunities to provide more than adequate access to adequately protect connectivity in the neighborhood as it continues to develop.

Esseks confirmed that Katt's client is opposed to Mum Drive. Katt agreed, stating that it is an expensive road to build because you need to cross a green space. The primary objection to building Mum Drive is the cost, with no real additional lot yield and very little benefit to the overall future development.

Carroll inquired whether the alternative for the pedestrian access easement would be up by Lot 12 and going west, which he believes runs right into the drainage way. Katt suggested that the specific location would need to stay out of the drainage way coming out of the Spilker property. Carroll thinks this would be difficult. Katt noted that Mr. Spilker had an engineer draw the potential scheme a year ago. It is difficult to identify a specific location until Mr. Spilker does something. Obviously the key on this one, given the fact that it is a common area, would be to identify the connection on this plat to be able to get to Jayden Avenue. They

will need to meet ADA standards and there is the grade of the ditch. That's why he thinks the preferable location is the one that connects Jayden to Fletcher. That is in an existing LES easement area.

Carroll inquired as to how severe the drainage is going north and south through Outlot K. Katt believes the acres that drain are under 160, but more than 80. It is not an inexpensive one to cross but it is not Salt Creek.

There was no testimony in opposition.

Staff response

With regard to the block length, Cajka does not believe the pedestrian easement is really the issue. Pedestrian easements are required if a block length is over 1,000 feet. This is over 1,320 feet. The issue here is more of how do you set up for development for the property to the west and have more connectivity and accessibility into the development? Staff believes that the extension of Mum Drive is important for that purpose. Cajka then demonstrated how this could occur. If you only have Bobby Drive extended to the west, there is probably at least a chance for one more street to come off of Fletcher west of the Spilker property. There will be a long ways coming to Bobby Drive before you can make any kind of other movements into the development. Mum Drive would give another access point off of another north/south street. It is 1,255 feet from Fletcher to Pennsylvania Avenue.

Cajka agreed with the proposed amendment to Condition #3.1.1.13 regarding the location of the park.

Rebuttal by the Applicant

Katt stated that the purpose of waivers and standards is to have rules apply to specific locations. This is unique. We are in an area that has existing acreage development that has been there for a long time, and we have drainageways that criss-cross all the way through here. He believes the public interests are protected by granting a waiver under these unique circumstances.

ANNEXATION NO. 06014

ACTION BY PLANNING COMMISSION:

September 27, 2006

Carroll moved approval, seconded by Larson and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06053

ACTION BY PLANNING COMMISSION:

September 27, 2006

Carroll moved approval, seconded by Larson and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 05015A

ACTION BY PLANNING COMMISSION:

September 27, 2006

Carroll moved to approve the staff recommendation of conditional approval, with amendment to Condition #3.1.1.13 (location of the park), as requested by the applicant, seconded by Taylor and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. (The Planning Commission did not grant the block length waiver for Block 18. This is final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 3:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 11, 2006.